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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013- 818

13 **VALERIE ELEANORE ASA,**
14 **aka VALERIE E. ENRIGHT,**
15 **aka VALERIE ELEANORE GILLOGLEY,**
16 **aka VALERIE ENRIGHT ASA,**
17 **aka VALERIE E. ASA,**
18 **aka VALERIE E. ESA,**
19 **aka VALERIE E. PECK**
P. O. Box 7
Fort Bidwell, CA 96112-0007

A C C U S A T I O N

20 **Registered Nurse License No. 179913**
21 **Public Health Nurse Certificate No. 64418**

22 Respondent.

23 Complainant alleges:

24 **PARTIES**

25 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
26 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
27 Department of Consumer Affairs.

28 2. On or about July 31, 1967, the Board issued Registered Nurse License Number
179913 to Valerie Eleanore Asa, also known as Valerie E. Enright, Valerie Eleanore Gillogley,
Valerie Enright Asa, Valerie E. Asa, Valerie E. Esa, and Valerie E. Peck ("Respondent").

1 Respondent's registered nurse license was in full force and effect at all times relevant to the
2 charges brought herein and expired on September 30, 2012.

3 3. On or about November 20, 2001, the Board issued Public Health Nurse Certificate
4 Number 64418 to Respondent. Respondent's public health nurse certificate was in full force and
5 effect at all times relevant to the charges brought herein and expired on September 30, 2012.

6 STATUTORY PROVISIONS

7 4. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
8 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
9 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
10 Practice Act.

11 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
12 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
13 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
14 (b), the Board may renew an expired license at any time within eight years after the expiration.

15 6. Code section 2761 states, in pertinent part:

16 The board may take disciplinary action against a certified or licensed
17 nurse or deny an application for a certificate or license for any of the following:

18 (a) Unprofessional conduct . . .

19

20 (f) Conviction of a felony or of any offense substantially related to the
21 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof . . .

22 7. Code section 2762 states, in pertinent part:

23 In addition to other acts constituting unprofessional conduct within the
24 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
person licensed under this chapter to do any of the following:

25

26 (b) Use any controlled substance as defined in Division 10 (commencing
27 with Section 11000) of the Health and Safety Code, or any dangerous drug or
28 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
in a manner dangerous or injurious to himself or herself, any other person, or the
public or to the extent that such use impairs his or her ability to conduct with safety to

1 the public the practice authorized by his or her license.

2 (c) Be convicted of a criminal offense involving the prescription,
3 consumption, or self administration of any of the substances described in subdivisions
4 (a) and (b) of this section, or the possession of, or falsification of a record pertaining
5 to, the substances described in subdivision (a) of this section, in which event the
6 record of the conviction is conclusive evidence thereof . . .

7
8 8. Code section 2765 states:

9 A plea or verdict of guilty or a conviction following a plea of nolo
10 contendere made to a charge substantially related to the qualifications, functions and
11 duties of a registered nurse is deemed to be a conviction within the meaning of this
12 article. The board may order the license or certificate suspended or revoked, or may
13 decline to issue a license or certificate, when the time for appeal has elapsed, or the
14 judgment of conviction has been affirmed on appeal or when an order granting
15 probation is made suspending the imposition of sentence, irrespective of a subsequent
16 order under the provisions of Section 1203.4 of the Penal Code allowing such person
17 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
18 the verdict of guilty, or dismissing the accusation, information or indictment.

19 COST RECOVERY

20 9. Code section 125.3 provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 FIRST CAUSE FOR DISCIPLINE

25 (Criminal Convictions)

26 10. Respondent is subject to disciplinary action pursuant to Code section 2761,
27 subdivision (f), in that on or about October 4, 2011, in the criminal proceeding titled *People v.*
28 *Valerie Eleanore Asa* (Super. Ct. Modoc County, 2011, Case No. M-11-250), Respondent pled no
contest to violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol of
.08 percent or more), a misdemeanor, a crime substantially related to the qualifications, functions,
and duties of a registered nurse. The imposition of Respondent's sentence was suspended and
Respondent was placed on probation for 3 years on terms and conditions. The circumstances of
the crime are as follows: On or about June 6, 2011, at approximately 0834 hours, Modoc County
Dispatch advised the Alturas Police Department of a possible intoxicated driver. The driver was
reported to be driving a 2006 Honda Element en route to a Verizon store located in Alturas. At

1 approximately 0904 hours, a California Highway Patrol officer observed the vehicle parked in
2 front of the Verizon store. The officer entered the store and made contact with Respondent, the
3 owner of the vehicle. As Respondent turned away from the service counter and walked towards
4 the officer, she was staggering slightly. The officer told Respondent he had received a report that
5 she was driving while intoxicated. Respondent told the officer that she had consumed an
6 unknown amount of Sangria at 0630 hours. While talking to Respondent, the officer noted a
7 slight odor of an intoxicating beverage on Respondent's breath. The officer asked the store's
8 assistant manager if he saw Respondent drive. The assistant manager told the officer that he saw
9 Respondent drive into the parking lot at 0854 hours. Later, the officer had Respondent perform
10 field sobriety tests, which she failed. The officer arrested Respondent for driving under the
11 influence and placed her in his patrol car. During a search of Respondent's vehicle, another
12 officer located an open 5-liter box of Peter Vella Vineyards wine. Respondent was transported to
13 the Modoc County jail, where she submitted to a breath test. The breath test results showed that
14 Respondent had a blood alcohol of 0.24 percent.

15 11. Respondent is subject to disciplinary action pursuant to Code section 2761,
16 subdivision (f), in that on or about November 16, 2012, in the criminal proceeding titled *People v.*
17 *Valerie Eleanore Asa* (Super. Ct. Modoc County, Case No. M-12-488), Respondent pled guilty to
18 violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol of .08
19 percent or more), a misdemeanor, with an enhancement for a prior conviction, and an
20 enhancement for driving with a blood alcohol content above 0.20%, a crime substantially related
21 to the qualifications, functions, and duties of a registered nurse. Respondent also pled guilty to
22 violating Vehicle Code section 40000, subdivision (a) (driving an unregistered vehicle). The
23 imposition of Respondent's sentence was suspended and Respondent was placed on probation for
24 4 years on terms and conditions. The circumstances of the crime are as follows: On or about
25 October 8, 2012, at approximately 2235 hours, Respondent was arrested for drunk driving after
26 the Tioga motor home and horse trailer that she was driving veered off the roadway while
27 attempting to negotiate a left hand turn in the road, struck a telephone pole at the climax of the
28 turn, continued to make a left hand turn driving across both lanes of travel, going through a metal

1 fence, and continued to drive through a series of three more metal fences, then re-entered the
2 county road traveling north in the northbound lane, and again veered off the roadway and struck a
3 four foot wide, four foot deep creek where the vehicle came to rest. The California Highway
4 Patrol officer observed Respondent's speech heavily slurred, eyes red and watery, a strong odor
5 of alcoholic beverage, and that Respondent was barely able to stand on her own. Respondent
6 stated to the officers that she had one glass of wine at 1:00 p.m. and back pain medication at 3:00
7 p.m. After her arrest, Respondent was adamant that the officer stop at her home to check on her
8 ranch, that she just needed to go home, and that she was fine. After being medically cleared,
9 while Respondent was being transported by a Highway Patrol Officer to Modoc Medical Center
10 and then to jail, they passed Respondent's residence, and Respondent slipped her right hand
11 through the locked handcuffs and opened the door while traveling approximately 25 miles per
12 hour, in an attempt to exit the vehicle. The Officer immediately stopped, pulled off to the
13 shoulder of the road, and called for a second patrol unit to assist in the transportation of
14 Respondent. After a second unit arrived, and while being transported by the patrol officer,
15 Respondent managed to get her feet free from the floor board of the patrol vehicle, and turned on
16 the radio repeater and front spot light, before the officer was able to remove her foot from the
17 dashboard and place it back on the floorboard. At approximately 2231 hours, Respondent
18 consented to two breath samples with the results of 0.295 % blood alcohol content at 2231 hours
19 and 0.300% at 2233 hours.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Use of Alcoholic Beverages to an Extent or in a Manner**

22 **Dangerous or Injurious to Oneself and the Public)**

23 12. Respondent is subject to disciplinary action pursuant to Code section 2761,
24 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
25 subdivision (b), in that on or about June 6, 2011 and October 8, 2012, Respondent used alcoholic
26 beverages to an extent or in a manner dangerous or injurious to herself and the public, as set forth
27 in paragraphs 10 and 11, above.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Conviction Related to the Consumption of Alcoholic Beverages)**

3 13. Respondent is subject to disciplinary action pursuant to Code section 2761,
4 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,
5 subdivision (c), in that on or about October 4, 2011 and November 6, 2012, Respondent was
6 convicted of a criminal offense involving the consumption of alcoholic beverages, as set forth in
7 paragraphs 10 and 11, above.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 179913, issued to Valerie
12 Eleanore Asa, also known as Valerie E. Enright, Valerie Eleanore Gillogley, Valerie Enright Asa,
13 Valerie E. Asa, Valerie E. Esa, and Valerie E. Peck;

14 2. Revoking or suspending Public Health Nurse Certificate Number 64418, issued to
15 Valerie Eleanore Asa, also known as Valerie E. Enright, Valerie Eleanore Gillogley, Valerie
16 Enright Asa, Valerie E. Asa, Valerie E. Esa, and Valerie E. Peck;

17 3. Ordering Valerie Eleanore Asa, also known as Valerie E. Enright, Valerie Eleanore
18 Gillogley, Valerie Enright Asa, Valerie E. Asa, Valerie E. Esa, and Valerie E. Peck, to pay the
19 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
20 case, pursuant to Business and Professions Code section 125.3;

21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: March 26, 2013

for Stacie Bern
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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